

APPEAL NO. 020073
FILED FEBRUARY 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 2, 2001, and part two of the CCH was held on December 4, 2001. The hearing officer resolved the sole issue before her by determining that during the qualifying period for the seventh quarter of supplemental income benefits (SIBs), the respondent (claimant) had returned to work in a position relatively equal to his ability to work and that he is entitled to SIBs for the seventh quarter. The appellant (carrier) appealed and the claimant responded, urging affirmance.

DECISION

Affirmed.

At issue in this case is whether the hearing officer erred in determining that the claimant is entitled to SIBs for the seventh quarter. In reaching her decision, the hearing officer determined that the claimant's underemployment is a direct result of his compensable injury and that the claimant returned to work in a position relatively equal to his ability to work. Whether or not a claimant's unemployment or underemployment is a direct result of his or her compensable injury is a question of fact for the hearing officer to resolve. This is equally true regarding a good faith determination pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d) (Rule 130.102(d)). Upon review of the record, we conclude that the hearing officer's determination that the claimant is entitled to SIBs for the seventh quarter is supported by the evidence, and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**C.T. CORPORATIONS SYSTEMS
350 N. ST. PAUL
DALLAS, TEXAS 75201.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Terri Kay Oliver
Appeals Judge

Philip F. O'Neill
Appeals Judge